

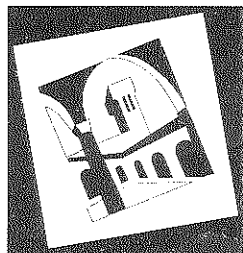
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Europe's 'Desert of Tartars' Challenge:
The Borders of the
Enlarged European Union

ALINA MUNGIU-PIPPIDI

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Mungiu-Pippidi: *Europe's 'Desert of Tartars' Challenge:
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EUROPEAN UNIVERSITY INSTITUTE, FLORENCE

ROBERT SCHUMAN CENTRE
FOR ADVANCED STUDIES



**Europe's 'Desert of Tartars' Challenge:
The Borders of the Enlarged European Union**

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This paper was written for a meeting of the Reflection Group on the Diversity and Unity in the Enlarged European Union, set up jointly by the Robert Schuman Centre and the Group of Advisors at the European Commission, and chaired by Professor Jean-Luc Dehaene. The European University Institute and the Robert Schuman Centre for Advanced Studies are not responsible for the proposals and opinions expressed by the author. For information on this and other projects on Eastern Europe at the Robert Schuman Centre, please contact Professor Jan Zielonka (zielonka@iue.it).

What are borders? Of the many definitions possible, the one closest to this approach is that of borders as formal delimitations between collective subjective entities – identities in the fortunate cases – politically organized in states or equivalents. As such, their importance is twofold: political, as they stand as protectors of one given set of laws and regulations, and not another; symbolical, as they also guard certain customs and norms, therefore cultural identity. Both accomplishments make borders indispensable, as collectivities cannot do without some identity, albeit conventional: cultural anomie is unhealthy. Yet in both endeavors borders are vulnerable and increasingly harder to sustain in times of unprecedented movement of ideas, people and capitals.

The 1999 Helsinki summit of the EU took the historical decision to set an Eastern border to Europe. It included the Baltic States, Turkey, two Balkan countries – Romania and Bulgaria – and left out Ukraine, Serbia, Moldova and others, with more or less similar legitimate claims and assumed identities. As the decision was taken in the aftermath of the Kosovo war, the border could not have looked different. Nevertheless, this historical decision seems to follow the blueprint of the most important European policies in the last decade of the 20th century, the crafting of nowadays policies on yesterday's shabby forecasts, be they the prolongation of the Cold War or the survival in power of the Milosevic dynasty into the 21st century. Given the benefit of hindsight, one cannot fail to notice some considerable inertia as a main driving force behind the signing of the European Maastricht Treaty or the EMU: but neither can one deny the exceptional significance of such decisions, regardless of their initial motivation. For some states of Eastern Europe, Helsinki was the best news in a century otherwise quite poor in historical opportunities. But many are still to be done to turn this conventional border drawn on a map in Brussels into a border of Europe, even assuming the target set is the right one. Challenges to the Eastern border of Europe are tremendous, and policies of enlargement may well stop short of securing what Europe was out seeking in the first place, peace, security and prosperity on the Eastern border.

This paper will review these challenges taking a political analysis approach rather than a technical, policy bound one. The latter would discuss Justice and Home Affairs acquis, cross-border police cooperation, and so forth, breaking down item by item the two main challenges: the geographical terrestrial border to the East and the 'wealth' border, the difference in income between Western and Eastern Europe. I will take a broader approach, however: challenges are rooted as much in policies' design as in their implementation, so from the Brussels policy planning cabinets to the Eastern outskirts of the vast European empire, border posts and Consulates directly facing the 'desert of

tartars'¹, one can try to cast a fresh look. Change is said to come only incrementally to huge organizations, but understanding can be occasionally unleashed. Still, understanding is culturally-bounded: of the scenarios for Europe released by the Forward Studies Unit in 1999 none was actually foreseeing Helsinki at some close range, and only one displayed some trust in classic liberal democracy to endure in the 21st century on the basis of successful markets, all the others being more or less disguises of post 1968 post-materialist ideologies. If the rate of forecast writers is of one free-marketer to four post-materialists, or of one Euro-optimist to four Euro-pessimists the future seems grim indeed.

Ideas are therefore as important as facts: this is the underlying assumption guiding this policy analysis. Consequentially, this paper is structured on the discussion of six essential *ideas* relevant to the enlargement policies and the Eastern border topic, and the challenge of common wisdom on those. This should not be read, however, as this author would somehow be in the possession of some alternative source of wisdom, or that such alternative wisdom even exists somewhere: instead, it should be viewed as a programmatic attempt of some 'mise en abime' exercise, of putting into the abyss of our common assumptions, hoping that unconventional discussion will foster our more advanced understanding. As such, I shall discuss policy options in the light of these widespread assumptions and their challenge to reach in the end a few recommendations.

Is Eastern European borders 'goodness-of-fit' comparable to the Western European one?

State borders may seem at the first sight to be granted similar significance throughout the continent of Europe as main symbols of national sovereignty. One estimate is that 8,000 miles of new state borders have been created in Central and Eastern Europe since 1989 alone. The brutal, be it peaceful (Czechoslovakia) or non-peaceful (Yugoslavia) redrawing of frontiers within Eastern Europe frightened the Western world after 1989: but it was a mere revenge on a century of frustration over the inability to find the 'right' borders, the expression of what a political scientist labeled as 'unfinished national revolutions'². All borders may be conventional, but some are more conventional than others, and Eastern European borders after the liberation wars that have started in the second half of the 19th century and ended with the Versailles Treaty in 1919 resemble to some extent more with African post-colonial borders than

¹ The expression is, of course, the title of a Dino Buzzati famous novel. The hero guards a border facing a desert and spends his lifetime waiting for the threat to the borders- 'the tartars'- to materialize.

² Philip Roeder 1999.

Western European ones. The character of Eastern Europe as a 'colony', unable to pursue a normal development path due to chronic foreign domination and intervention by the entities designed under the name of 'the Great Powers' is rarely acknowledged nowadays, and for some regions such as the Balkans, even its negative consequences are disputed (Todorova 1997, 184-188). Nonetheless, the essential variable that prevented normal state formation in Eastern Europe and led to the impossible patchwork we face today is the confiscation of natural national developments by centuries of foreign domination and /or intervention. Nowhere and at no times were nation-states built without violence: the idealization of Western European state and nation building only leads to flawed categories of nationalism. Centuries of combined ethnic and religious cleansing, conversion and negotiation lead to Western European nations within the Euro-Atlantic region, what Gellner (1994) labeled once the first and second time-zones of Europe'. In the third time-zone, roughly the enlargement countries of nowadays, this evolution was prevented by the zone being a playground not for God, as the title of a contemporary history of Poland proclaims³, but for the Ottoman, Habsburg and Russian empires. The most influential set of classifications of nationalism as Western civic, Eastern ethnic (Kohn 1965; Gellner 1994) is reducible in fact to 'Western good, Eastern bad' and fully based on the lack of acknowledgement of two essential phenomena: national underdevelopment of Eastern Europe due to foreign occupation, and civic liberal models, not German romanticism, as the *initial* dominant paradigm of 19th Century East European state-building (Sugar 1980). A much more refined, therefore accurate point of view is present in nationalism literature (Sugar 1980; Greenfeld 1991; Roeder 1999) but as it is often the case with more complex, less black-and-white classifications this has never mattered for policy. Western European borders were, one must acknowledge, rendered a lot more 'natural' through centuries of evolution. Their superimposition on the natural frontiers of 'social communication'⁴ set by common or close languages reached a high degree of 'goodness-of-fit'. Where it did not, as in the case of borders between France and Germany a revolutionary process of unification of Europe was needed to solve the matter. But nowadays, indeed, on average less than a third of West Europeans consider their borders 'wrong', and the figure decreased even more after the unification of the two German states. In Eastern Europe, however, the situation could not be more different: on the average, a majority of East Europeans are not settled with their borders, and three polls (Times-Mirror-1991⁵; Heywood, Miller and White 1998; Mungiu-Pippidi 2000b) found high rates of agreement with the statement "Unsurprisingly labeled by Heywood, Miller and White as 'external nationalism', this variable may actually measure the awareness of perceived historical 'lack-of-fit' of national borders to national

³ Davies 1984

⁴ Karl Deutsch 1953

⁵ Reported in Klaus von Beyme 1996.

cultures than nationalism *per se*. Accepting cultural minorities within one's national borders is manageable: accepting in the same time that one's own ethnic group makes a minority or even a majority in a neighboring state (Kosovo, Moldova) while one's minorities are in the same position towards other neighboring states reaches the point where one has to accept that borders are entirely, not partly conventional, and as such are purely meaningless entities. The perception of Eastern Europeans that something is wrong about their borders is therefore somehow grounded in reality; this does not imply, however, that a better set of borders could have been produced when centuries of unnatural evolution had to be brought overnight to an equitable and workable solution. This also does not imply that the *perception in itself* of borders as wrong does not generate territorial nationalism. It does. Hungary, for instance, leads in the top of external nationalism of the countries polled, despite Hungarians from abroad being high on the list of the most disliked groups in Hungary (Heywood, White and Miller 1998). In the Freedom House survey Romanians show a close match to Hungarians dissatisfaction with borders, and share as well the distaste of co-nationals living in surrounding countries, especially Moldovans (Mungiu-Pippidi, 2000). This shows that historical memories, more than contemporary feelings of solidarity grounded in common identity feed territorial nationalism⁶.

Figure 1. Territorial nationalism in selected European countries

	UK	D	DDR	CZ	HU	PL	BU	RUS	UKR	LI	RO
There are parts of other countries which belong to us	20	43	25	39	68	60	52	22	24	46	71

Source: Times Mirror Survey, 1991; Freedom House-SAR, 2000

If that is the problem, what is the solution? Most Eastern European borders are closer to the France-Germany model than to the ordinary West-European border, so the plain solution that these borders must be rendered superfluous via a process of unification (although it was not specifically stated as such at Copenhagen or Helsinki) is the wise one. But three serious problems arise here:

i. The most difficult borders lie not within the enlargement area; after all, Hungary, which has the largest minorities in surrounding countries would not dream of waging war against Slovakia or Romania to recuperate some of its pre-

⁶ It seems that self-esteem is bolstered by the idea of a Greater Hungary or a Greater Romania: we dream of a greater collective self, but of a rather abstract one, inhabitants of these alienated territories being seen as second-rank nationals. However the utility of a 'Greater' country in the historical past as a bolsterer of self-esteem is accountable for citizens being on the average still interested in history in times and regions where the education system faces serious problems to teach anyone anything.

1918 territories. The most difficult borders are with and within former Yugoslavia and only a poor forecast indeed can foresee the stabilization of South Eastern Europe without some degree of inclusion of former Yugoslav countries. There is no final solution, nor indeed a temporary convenient one for former Yugoslav countries without their inclusion in the EU, regardless if this solution may seem remote and indeed far-fetched today. When crafting a border policy one has to keep in mind that Yugoslavia must be brought in Europe sooner or later if Europe wants peace on its South-Eastern front, and this can be achieved sooner than some people believe⁷. The pessimism of some authors regarding former Yugoslavia is exaggerated⁸. Wasn't it equally difficult at a given time to conceive the German-Polish or the German-French reconciliation, not to speak of the Spanish-Spanish one? It is difficult indeed to be optimistic about Yugoslavia within the current limited framework of imagination, as the embattled, not viable and not-even-ethnic-homogenous statelets outside the EU.⁹ Same applies to Albania: smuggling Albanians into Italy will continue forever, despite Italy being a full Schengen member, if Albania is not given more hope it can belong to Europe some day.

ii. Some of the borders with problems are between accession countries and their neighbors, who would be excluded once all applicant countries adopt the Schengen acquis. Hungary's border with former Yugoslavia, where a strong Hungarian minority lives in Vojvodina still, Poland's border with Ukraine, where a large Polish minority lives, and Romania's border with Moldova fall in this category. To be sure, these are not conflict-leading borders *per se*; nobody would wage war to change them. But making those borders impermeable would sever minorities' connections with countries where the bulk of their culture lies, prompting illegal entrances and feeding resentment. Formal barriers stop ordinary citizens, students and truck drivers: they fail to stop criminals.

iii. The same risk is faced in the third circumstance, the very plausible event that even within the current pool of applicants to the EU some will join sooner and others later - considerably later (Romania and Bulgaria apply for

⁷ If Europe would not have been pursuing policies crafted in the Cold War era, but have timely come out with an enlargement offer to Eastern Europe in the aftermath of the German unification, European history might have been spared its most recent war (see also Kramer 1993).

⁸ See Stokes 1997, for instance.

⁹ Let us imagine for a moment that the EU would decide to bring in all former Yugoslavian states in the same time, therefore setting the most important incentive to peace possible. Even if this would upset the more developed states, such as Croatia, for instance, and would basically alter the current rule, the one-joins-when one is ready approach, good policies are built on good incentives embedded within. Borders, not economic development is the prevailing common problem of former Yugoslav states, and border-solving business requires regional, not country-by-country approaches.

certain, but things may get messy even for Poland). Foreseeing such a development, the current Hungarian government has, for instance, crafted a bill, granting Hungarians living in neighboring countries (Slovakia, Romania, Ukraine, former Yugoslavia) limited citizenship rights, that is, entitlement to limited work-permits and benefits, although not the right to cast a vote in Hungarian elections (the so-called Status Bill). As, with the exception of Slovakia, these countries are still on the black list of visas, Prime Minister Orbán may have reasoned correctly on behalf of the 4 million Hungarians living in neighboring countries, of which quite a few try to work in Budapest, at least seasonally¹⁰. Such policy remains to prove itself as having the potential to solve more problems than start new ones. Most Hungarians from outside Hungary were eligible for work permits even before the 'Status bill' was passed by the Hungarian Parliament; if they did not apply for such a permit is because there is a black market of labor for seasonal workers, and only a black one. It is affordable to hire Magyars from surrounding countries because they settle for lower wages and no taxes have to be paid to the state by the employer, and the law will not change this economic rationale. The main driving rationale behind the law was nevertheless the need to do something to help ethnic Hungarians residing in neighboring countries not to fall behind the border once it will become the border of enlarged Europe.

Once a border is set, albeit conventionally, it starts working as a border, in other words, it starts generating differences across it, and homogeneity within.¹¹ Even more so when a border is designed as the manifestation of a vast program of crafting a new identity and the common reality underlying it, as is the case with unified Europe. This implies that current differences between Schengen-joining accession countries and those falling behind so far, as well as differences between the former and their neighbors to the East will increase. Gaps will only widen by the imposition of impermeable borders.¹²

2. Culture, and not development is what divides East from West?

The difference between the development of Western and Eastern Europe is above any controversy. Even where we are dealing with the same history and the same culture, as is the case of Eastern Germany versus Western Germany decades of more investment are needed to mend the destruction Communism caused to the economy and society. However, this development border was

¹⁰ The status bill has been long pending before being passed on June 19 by the Hungarian parliament. Its initial version had many discriminations which were subsequently dropped acting on EC's suggestions.

¹¹ This worked in post-1918 Eastern Europe to a large extent, in unitary states more than in federal ones. Only the region was so heterogeneous on all counts it did not work fully.

¹² See Vahl, Batory Foundation Policy Paper

much less an object of public concern in the West as was the 'cultural' assumed one. More than one version of where this border actually stands has been around in the past decade. Vaclav Havel himself and Timothy Garton Ash have acknowledged between Western and Central Europe the existence of 'a wall in our heads'. Many Central Europeans, who strive to prove their cultures are a hundred percent Western, unlike the Eastern European one, who is 'different' indeed, implicitly accept this argument, but only strive to push this cultural border further to the South and the East¹³. Samuel Huntington endorsed this with his William Wallace-based argument: 'The Velvet Curtain of Culture has replaced the Iron Curtain of ideology as the most significant dividing line in Europe'¹⁴.

This well-phrased assertion came under serious attacks: however, one must acknowledge that even imagined borders can, at times, if we are dealing with widespread perceptions, turn into real borders, so 'the wall in our heads' can well be of our own doing. Until the last day of the last Millennium, for instance, Eastern Balkan countries, despite being invited to join the EU, were black-listed by the EC and most member states as well, so in order to travel to the rest of Europe their inhabitants needed to get a visa at the consulate of some member state, a process often expensive, time consuming and humiliating. Countries falling within the cultural borders, despite being rated similarly in terms of their overall performance by the EU, as Slovakia, or not even featuring among invited countries, as Croatia, enjoyed a lot more freedom of movement within Europe than Bulgaria and Romania. However, when checking the public opinion data no cultural differences seem to matter. On the average East Europeans report having an 'European identity' more than West Europeans, amazingly, but this probably reflects only their strong desire to end the forced separation of Europe they have lived through fifty years of Communism.¹⁵ Comparisons of Eastern and Western Europe (Heywood, White and Miller, 1998) or within Eastern Europe (Rose et al., 1998; Mungiu-Pippidi, 2000b), as well as cultural classifications based on World Values Survey (Inglehart, 1997) show that Eastern Europe falls within one cultural area, with the recent influence of Communist overriding dramatically any remote influence of past regimes or cultural factors such as religion¹⁶. In terms of development, however, things are

¹³ Timothy Garton Ash reviewed this argument a number of times. See also Todorova (1997).

¹⁴ I quote after the original article 'A Clash of Civilizations?' from the summer 1993 issue of *Foreign Affairs*.

¹⁵ ISSP survey on national identity, 1995.

¹⁶ The famous cultural Huntington divide between Catholic Habsburg Central Europe and Orthodox Ottoman Balkans does not exist. Multivariate models explaining democratic orientation fail to turn out religion as a predictor (Rose, Mishler and Haerpfer 1998); when comparing within a closer development range, that is, Romania and Bulgaria against fellow

quite different. And the imagined wall becomes a very real wall indeed when one considers the figures of foreign investment per capita, which by itself explains a lot why some transitions were successful and others not. Historical legacies of development, however, can hardly be seen as 'cultural' legacies and they should not be considered as such.

Figure 2. EU applicant countries- Selected indicators

	CZ	ES	HU	PL	SL	BU	LV	LI	RO	SK
GDP/capita adjusted by purchase power parity (PPP- 1999)	62	38	53	42	73	24	29	31	28	49
Foreign direct investment (FDI)/capita- thousands USD	1.68	1.64	2.05	1.04	1.35	0.464	1.75	0.649	0.268	0.389
Trust in Parliament(Freedom House and NDB V combined)	15	-	25	25	20	12	-	-	13	21

Can the most severely constrained of these societies, the countries beyond Huntington's fault line to the east carry the burden of EU accession with little direct foreign investment, and insignificant structural aid? The problem is more pressing for Romania and Bulgaria, which seem to fall behind the rest of the group, but only due to persistence or aggravation of stronger initial constraints, low foreign direct investment and interest in general. Without a proper differentiation of policies¹⁷ in order to make the Helsinki invitation more than just a symbolic thanks to Balkan countries for support over Kosovo¹⁸, chances are the Eastern border will be set between Central Europe and the Balkan countries, which would induce major political disadvantages and will prove the Balkan stability pact an empty catchphrase. This would point clearly to the fact that the border is economical more than political: both Bulgaria and Romania showed clearly they are committed Euro-Atlantic supporters throughout the Kosovo campaign and the 2000 elections in Romania, despite initial worries, produced a government with similar foreign policy to the previous one. Both countries have come to fulfill the Copenhagen political criteria. But also both countries have a long legacy of stronger constraints: Ottoman rule,

second-wave applicant but catholic and Central European Slovakia not only religion, but even nationality does not make a difference (Mungiu-Pippidi 2000a).

¹⁷ Vaughan-Whitehead 2000 also emphasizes the widening gap between applicant countries and considers differentiation essential. See also Mungiu-Pippidi 2000a.

¹⁸ A quite ineffectual thanks to this effect. The unpopular policy of support for NATO bombing cost the Romanian liberal government a dramatic drop in popularity followed by losing office. The Bulgarian government, despite holding elections only a year later also paid dearly in popular sympathy.

underdeveloped institutions, more closed and repressive communist regimes, large ethnic minorities, vicinity with Yugoslavia and therefore reliance on the Danube trade, paralyzed by embargo and war for most of the past decade¹⁹.

If no cultural problems can be found despite so many self-fulfilling prophecies, development problems abound. Few dare to phrase it plainly in such non-political correct terms, but the major problem of Europe of today and tomorrow is how to protect its havens of prosperity from an invasion of 'tartars', its high living standards from the need to redistribute wealth to poor regions of post-communist Europe and its social acquis from a more liberal American-type approach²⁰. And it may well be that the latter requires the former. The ambiguous career of the Euro so far and the slowdown of the American economy create further need for Europe to protect its moderate growth and pursue cautiously its economic integration. This leaves little room for a daring policy to increase competitiveness, to radically reform EU spending and to use the enlargement as an opportunity to boost the European economy. And as long as EU has a conservative policy towards its budget and enlargement remains, in terms of spending, a third rank policy, economic challenges to the Eastern border remain considerable.

The first remains the issue of freedom of movement. According to various sources, even Slovenia, which has the highest per capita income of all applicant countries might need twelve to twenty years to level its living standards with neighboring Austria. As long as differences between Western and Eastern Europe remain so dramatically high the worry that the enlargement will be followed by a wave of immigration persists. So far, the German and the Austrian governments have been the most active among member states in this area, as they considered themselves to come under the most serious threat. Germany has recently managed to obtain from the Commission a stall of 5 to 7 years on the freedom of movement of workers once the first applicants are in. For Poland and Hungary, this was a considerable blow, as governments there have constantly quoted the free movement of labor as the main incentive of the European accession. Hungary suggested in reply that such a decision is acceptable only if applied bilaterally. With the structural aid and the CAP reformed to allow newcomers a share, and the free movement of labor blocked, EU becomes quite unattractive to the most advanced applicants, who are also required to adopt and

¹⁹ The Gothenburg European Council acknowledged this and included the idea that the applicants facing more problems need more help for the first time in a resolution on enlargement.

²⁰ See France's Prime Minister Lionel Jospin speech on EU, IHT of May 29, 2001

implement the full Schengen acquis even before becoming EU members.²¹ To be certain, the accession process has also other important advantages: the most important one is that it gives clear direction to a process of institutional and economic transformation, prompting even reluctant governments (such as – at times- the Romanian or the Slovak ones) to do necessary reforms. But such incentives are quite meaningless for countries such as Estonia or Poland who move ahead at full speed already. Unsurprisingly, public support for the EU in these countries is declining as perceptions of sacrifices induced by years of liberal reforms prevail over short-time hopes to boost living standards via EU accession.

The concern with the potential immigration of cheap labor force from the East may be exaggerated, but remains a serious one, in bad need for a common policy. Some separation is needed, however, between fears of raising criminality in the enlarged Europe, addressed in detail by the Schengen acquis and the policy documents of Home and Justice Affairs, so needing only intelligent and effective implementation and the problem of immigration, which badly needs a totally different set of policies.²²

How justified is the fear of massive immigration? Most authors agree it is much exaggerated (Langewiesche and Lubyova 2000). Extrapolations from the past enlargement process or current figures have obvious limitations. Polls confirm, however, that Poland's or Romania's immigration potential remains quite high. Other estimations point to a figure of 35% of would-be employees out of a total of 335 000 residents who are assumed to immigrate following the removal of barriers after the first wave of enlargement.²³

²¹ When one is poor one also lives in the wrong neighborhood, it seems. Strict geographical-economical determinism seems to guide the EC's policy on Schengen, imposing on newcomers harder rules than on Western non-Schengen member-states and non-members.

²² See also Batt and Amato, 2000 on this distinction.

²³ According to a Brussels-commissioned report by the German think tank DIW.

Figure 3.- Regulation of work permits in EU countries

	Total number of permits	Access for self-employed?	Are long-terms residence permits issued?
Austria	126.889 (1999)	Only residence permit	Yes, for 1 year
Belgium	83.500 (1999)	With prior agreement of Ministry	Yes, after 5 years
Denmark	73.092 (1999)	Very rarely, only for important aspect of the activity	Yes, if a work permit is granted
Finland	-	Only residence permit, and business plan	Yes, usually for 1 year
France	-	Many professions prohibited to foreigners	Yes, between 1 and 10 years
Germany	1.083.268 (2000)	Yes, lengthy procedures	Yes, granted up to 5 years
Greece	69.600 (1997)	Yes, required financial resources	Yes, between 1 and 10 years, renewable each year
Ireland	2.600 (1997)	Yes, but "business permission" required	Yes, for 1 year
Italy	30.000 (1999)	Yes	Yes, after 5 years
Luxembourg	6.800 (1997)	Yes, bunk guarantee must be paid	Yes, for 1 year
Netherlands	20.816 (1999)	Yes, residence permit needed	Yes, for 1 year. After 3 years no more work permit needed. After 5 years permanent residence permit is granted under certain conditions
Portugal	-	Yes	Yes, if has resided legally for at least 10 years.
Spain	85.526	Yes	Yes, after 6 years a permanent residence permit may be applied for
Sweden	220.000	Yes	Yes, after 2 years a permanent residence permit may be applied for
U.K.	72.599	Very tough conditions	After 4 years work permit holders can apply for permanent settlement

Figure 4. Eastern European would-be workers in the EU

Would you be personally interested in finding a job in one of the EU countries once your country enters EU? (%)	Czech Republic		Hungary		Poland		Bulgaria	Romania
	IX 00	V 01	IX 00	V 01	IX 00	V 01	V 01	V 01
	00	01	00	01	00	01	01	01
1. Yes, I am interested and I will certainly try	4	4	6	7	10	13	9,6	17,3
2. Yes, I am interested and I will probably try	7	8	7	7	8	10	10,6	13,5

Source: CEORG poll, 2001

The figure is by no means scary, although Germany's fear of Polish immigration has already succeeded in halting the free movement of labor for five to seven years. The problem lies however with the next wave of countries, those with a higher migration potential, from Lithuania to Romania. The problem lies with the difficulty to solve the Roma problem in a foreseeable time framework and not to feed the already existing perception of Romanians and Bulgarians that the EU Member States operate with double standards, on the one hand asking these countries to solve their Roma problem, on the other hand delaying their entrance from fear of floods of Roma invading Western Europe (Heimerl and Petkova 2001; 182). Not to be mistaken, the walls of a fortress are needed to keep beggars out, but how thick can you make them and would the cost not exceed in the end the one of paying to solve the cause? The model Europe should look at more closely is the Greek one: following the abandon by the Simitis government in 1996 of the practice of forcefully expelling of Albanian illegal migrants an estimate of about 500 000 hundreds Albanians work in Greece, representing a boosting factor for both economies.

It has already become obvious that the second issue related to the new economic border concerns the Roma. The large migrant communities of Roma have managed to cross the borders regardless of all the barriers in the past ten years and little is there to keep them in their home countries, where they are allegedly politically discriminated, and certainly economically disadvantaged. Enforcing the borders against the Roma was not a solution in the last decade and it will not work in the next one either: the Romanian Roma, for instance, have reached the point where they control the black market for some products in the underground Paris market²⁴. Roma claim that they are the targets of racially motivated discrimination and violence in candidate countries; candidate state government officials make the counter-claim that they are merely economic migrants.²⁵ Both have found support for their claims within the EU: discrimination and violence against Roma is highlighted in the EU's Regular Reports, but Romani claims for asylum in EU Member States are generally denied.²⁶ While implementing anti-discrimination policies we should not for

²⁴ such as selling of homeless' newspapers

²⁵ Commenting on the case of Romany families from Zámoly seeking asylum in France, Hungarian Prime Minister Viktor Orbán told Hungarian Radio on 9 August 2000 that "Roma in Hungary should try to learn and work more." József Krasznai, spokesman of the Zámoly group, said Orbán would be entitled to make such comments "only when all Romany children are able to go to standard schools and Roma are not discriminated against on the labor market." RFE/RL Newline, 10 August 2000.

²⁶ One of the more dramatic examples of Member State attitudes towards Romani asylum-seekers came when Belgium ignored a stay on deportation issued by the European Court of Human Rights and forcibly deported a large group of Roma asylum-seekers to Slovakia in October 1999. See RFE/RL Newline Vol. 5, No. 2, Part II, 4 January 2001. See also Claude Cahn and Peter Vermeersch, The Group Expulsion of Slovak Roma by the Belgian

one moment imagine those have the potential to solve the issue, however: affirmative programs for Roma, now in fashion, are not without utility, but neither do they address the hard issues. Nor are aggressive demands from the part of human rights groups to grant Roma coming from former Yugoslavia political asylum in Western countries likely to be successful.

The largest group, the Romanian Roma is a 1.5 million-strong ethnic group that cannot even be called a community due to its loose, fragmented, pre-modern organization and the important differences within the group itself²⁷. The Romanian Roma are the heirs of slaves liberated between 1848 and 1854 from large domains, who have enjoyed neither the kind of social assistance the American black community have, nor have ever lived in a prosperous country. The legitimacy enjoyed in their own ethnic group by leaders who get to discuss with governments and international organizations is low to nil.

Figure 5. Numbers of Roma in selected EU countries

COUNTRY	HUNGARY	BULGARIA	CZECH	SLOVAKIA	ROMANIA
No Roma	140-600,000	313-800,000	32-200,000	80-520,000	600-1.5 mil.

Can one realistically assume that Romania is able to tackle the heritage of its Roma by itself? Despite producing a national strategy for Roma at the request of Brussels, it is clear such a document can be a proof of good will only. A country, which has not succeeded an economic breakthrough since the fall of the Wall cannot solve a problem proved long and strenuous even in the most advanced economies. Even if to a smaller degree, the problem exists in other countries in the region as well. In this spirit, the Czech government has asked for the 'Europeanization' of the Roma problem. Some programs, mostly based on community building and empowerment of groups, in other words, more on a *social capital type of approach* may work, but these require not only considerably more funds, but also a different approach to assistance programs and the understanding of the Roma issues.²⁸ And it would take decades to

Government: A Case Study of the Treatment of Romani Refugees in Western Countries", Cambridge Review of International Affairs, Spring/Summer 2000.

²⁷ The Roma population is subdivided into almost 40 groups, according to customs and traditional structures, occupations, language, religion, and degree of nomadism. Roma groups include the Bear owners (Ursari), the tinsmiths and coppersmiths (Caldarari), the musicians (Lautari), the whitewashers (Spoitori), the blacksmiths (Fierari), the horse dealers (Grasdari), the woodworkers (Rudari), the flower sellers (Boldeni), the jewellers (Argintari), the goldwashers (Aurari). Another distinction to be made is between those settled, sedentary (Vatrasi) and the tent dwellers (Corturari).

²⁸ A successful example of such a program is the World Bank's Social Development Fund in Romania. Targeted at the poorest communities the program matches WB funds with community resources (most often labor). Field operators identify communities most in need,

properly solve the historical inequalities, even if the positive signal of starting such a mass scale program would certainly deter many Roma from emigrating. *In other words, incentives have to be created to keep Roma in their countries, but countries as poor as Romania and Bulgaria cannot offer such incentives not even to ethnic Romanians or Bulgarians for now.* What countries can and should do is pay more attention and be more effective in enforcing equal treatment before the law - but that will have little practical consequence in preventing immigration. A global European strategy to the Roma issue is badly needed.

3. *Good ends somehow generate their own effective means?*

The failure or success of an institutional transformation on the scale of the European integration of a post-communist country, seems increasingly to rest upon clear delimitation between the ends of a transformation - let us call these final institutions, e.g. Eastern economies competitive with Western ones, and the means used to attain those, such as the *acquis*. The mixing of the two in the policy discourse and debate have occurred more often than not in the past decade, and in the most difficult country cases (which had been subjected previously to deeper communization processes) such approaches inflicted major damages to the transformation management. Examples accounting for dramatic failures can vary from competition policies to law enforcement.²⁹ It is not a simple issue of empowerment, although empowerment is important, but an imperative need to assert the necessity of *intermediate* institutions³⁰, to identify them correctly (as the final institutions are obvious: the White Book and the Agenda 2000 state those in clear) and then implement them by empowering the right agents. From economic development to social inclusion and ability to integrate into Europe much will depend on the strengthening of institutions and governance in East Central Europe. Gradual integration with the European Union will require significantly more mature institutional structures, able to satisfy the economic, political framework conditions of the EU and to implement the "*acquis communautaire*". Unlike other strategies that come at package with at least some intermediate institutions (like development strategies), European accession is an end often deprived of means, and quite a burdensome end for countries where institutions are weak, norms shabby and

advertise the program and help local organization. It is hard to imagine such an effective program could be run by the EU one day, as the application procedures are minimal, the operator assists applicants in doing them and the applicants do not even need to be legal entities, proof of a shared bank account being sufficient.

²⁹ See Stephen Holmes' report on the failure of assistance programs to reform Russia's judiciary in *East European Constitutional Review*, Volume 8, Number 4, Fall 1999

³⁰ The meaning granted to institutions here is of sets of rules and practices; institutions are the means of governance, not its ends, therefore instrumental and intermediate in their essence.

resources scarce. One cannot stress enough the need for institutional development necessary for East Central European countries to become reliable partners in the EU integration process³¹. Good governance comes basically from a set of institutions which structure political and economic life, and reaching those require often intermediate institutions able to motivate people and organizations to change from whatever institutions they previously had (the Communist ones, in our case) to the new required ones. Such transformations can and should be measured.

Weak institutions cut across government agencies and tasks- it is highly unlikely that some sector will have strong institutions, and another weak ones. Obviously, many transition countries have weak institutions and the high degree of institutional transformation required by successive ideologies and contradictory targets throughout transition have weakened them even further. The core services the government is supposed to provide, such as the legal and judicial protection to citizens are the most affected by institutional weaknesses, although most of the public debate is focusing on the market institutions. On the overall, the weakness of institutions in the area we are interested in - justice and home affairs- can use the concept of accountability as an useful proxy. ECE countries need to build accountable governments and public agencies. The dramatic discontent with the political class and political organizations of the publics lies in the overspread feeling the government is unaccountable. More often than not this perception is rooted in reality, due to the fact that institutions of horizontal accountability are extremely weak or plainly missing. In developed democracies vertical accountability is provided by the constituencies, and by competition for resources between levels of government. The legislature and the judiciary provide formal horizontal accountability, but also NGOs, interest groups, and a fair and strong media have an essential contribution to informal horizontal accountability.

Surveys of the applicant countries show important differences among them, but also point to a clear underdevelopment of institutions of accountability and law enforcement in general.

In the following lines I shall quote series of data coming from various sources, including a 2000 accountability survey of East Central Europe (Mungiu-Pippidi 2000) by the Romanian Academic Society. These include the World Development Report Survey of Enterprises 1997, the EBRD/World Bank 1999 Business Enterprise Performance Survey, Transparency International, KKZ, International Country Risk Guide, Heritage Foundation, IMF Global financial Statistics, and the International Telecommunications Union. According to the

³¹ See the 2000 World Bank strategy report for South-Eastern Europe for a broader argument on this.

EBRD/World Bank 1999 Business Enterprise Performance Survey, in the institutional infrastructure component, which measures perceptions of the Judiciary, Corruption, Street Crime and organized Crime, for instance, on a scale of 0 (major obstacle) to 3 (no obstacle), Bulgaria is rated 1.49 and Romania 1.48. This compares to Hungary (2.34), Slovenia (2.23), Czech Republic (1.97) and Poland (1.7). Both subjective and objectives estimate of corruption and accountability show a similar picture: most countries fall in the lower half of the scale. Romania and Bulgaria, Eastern Balkan countries score below Croatia on rule of law items. Poland is not doing very much better compared to Eastern Balkan countries, though. We included countries of former Yugoslavia to facilitate comparisons between the three-speeds of Eastern Europe. Three clusters are indeed emerging, with Slovenia and Hungary on top, with high compatibility on Home and Justice items, FRY and FY on the bottom, with Romania, Bulgaria and Croatia somewhere in the middle on the scale, and Poland and the Czech Republic above them. This shows the three countries supposed to become the next 'buffer' area of the EU to the East, Poland, Romania and Bulgaria are not the best prepared for such a task.

Figure 6 Rule of law in Eastern Europe. Selected Indicators

Selected Legal/Judicial Indicators									
		Albania	Slovakia	Bulgaria	Croatia	FYROM	Romania	Kosovo	Hungary
FH	Rule of law	5.25		3.75	4.75	4.50	4.25	5.00	1.75
WDR	Predictable judiciary	4.66		4.61	NA	4.28	NA	NA	3.65
EBRD	Law and order index	NA		1.38	1.43	NA	1.07	NA	2.34
KKZ	rule of law index	-0.92		-0.15	0.15	-0.26	-0.09	NA	0.71
ICRG	law and order (0-6)	2		4	5	NA	4	NA	6
SAR-FH ³²	accountability index (0-5)		1.51	2.64		1.74			
FH	Corruption /3	4	3	3	3	3	3	4	1

Note: Bigger numbers indicate worse governance for FH and WDR97. Bigger numbers indicate better governance for EBRD law and order index, TI, KKZ, SAR and ICRG.

³² Average of response rate (0-lowest 5-highest) of government agencies when asked to produce the most recent activity report.

The "Area of freedom, security and justice" has shown an extraordinary build-up of structures and activities as a reaction to perceived transnational threats to internal security; the outcome was the proposal of common structures and measures at the European level. There have been quite a number of those over the last ten years. Monar (1999) quotes :

- (A) a proliferation of centralized European mechanisms of control such as the upgrading of Schengen external border controls, the creation of the Schengen Information System (SIS), the establishment of Europol, the build-up of the Customs Information System, and the agreement on the Eurodac Convention;
- (B) the adoption of a large number of binding and non-binding restrictive texts in the areas of asylum and immigration, which include the Dublin Convention, various resolutions to restrict immigration, the re-admission agreements concluded by the Schengen members with third countries, etc.; and
- (C) some first measures aimed directly at improving law enforcement, such as the imposition of uniform minimum sentences for fraud against the EC budget, the criminal law measures taken against cross-border corruption, the facilitation of extradition, and the first steps in permitting cross-border law enforcement operations.

At the 1999 Tampere Council substantial steps have been taken towards: the creation of a common asylum system (especially as regards procedures and minimum guarantees); the use of external EU instruments for the reducing immigration pressure on the Union; improving procedures in cross-border litigation; and enhancing the mutual recognition of judgments and more legislative action in the fight against money laundering. Two new institutions were created: EUROJUST, which will have the task of facilitating the coordination of national prosecuting authorities and to support criminal investigations in organized crime cases; and a European Police College for the training of senior law enforcement officials.

These highly complex and sophisticated instruments are supposed to be adopted almost in the same time and many of them either prior to accession or from day one of accession by applicant countries. In the current stage of institutional development of the Eastern applicants such adoption can be in many instances only formal. More time and assistance is needed in order to adjust both national legislation and practice to such a demanding task, and in some cases those won't even suffice. For borders policies to be effective, however, more than formal adoption is needed. As Home ministers from Poland and Romania have repeatedly pointed out, it is difficult to enforce borders without cooperation from neighboring countries. There is considerable

corruption of custom and borders officers even in applicant countries where they receive their wages regularly (although they are asked to resist corruption with wages varying on the average between 100 and 400 USD), but on the Eastern neighbors side, in Ukraine and Moldova we often find law enforcement officers who are not paid at all. In Moldova there is a price tag for every felony, including life sentence.³³ Infrastructure upgrade and professional training on a massive scale are needed, but the most serious issue of all is the socio-economic gap. How much above the national average can one pay law enforcement officers and judges to make sure they resist corruption? The disadvantage of globalization is that bribes attain the level of developed countries even in underdeveloped ones, while even the highest wages in Eastern Europe's public sector cannot match the Western ones. Even by 2005 Slovakia, for example, is not likely to have reached more than 15-25% of the Austrian wage level (at current exchange rates). With the Czech Republic and Hungary wage disparities are not very different.

Eastern countries have made considerable efforts to comply to requirements to bring their judiciary and law enforcement agencies in line and some progress is indeed visible. *But there is a direct correlation between the general level of institutional development and the implementation of home and justice affairs.* The countries in the future buffer zone have uneven potential, but even the most advanced ones are hardly able to carry the burden of the EU Eastern border by themselves. The approach so far has been to ask them to adopt the *acquis* - therefore to stress the final institution, the institutional end- and some support in training and infrastructure building via PHARE programs, reputed for their lack of flexibility and inability to contribute to institutional building.

When describing the difficulties of Western assistance programs to reform of the law enforcement agencies in Russia Stephen Holmes (2000) makes a number of considerations with much larger applicability:

The first steps of legal reform, such as *deregulation*, may be relatively easy. But subsequent steps, such as creating an honest civil service, are much harder. Improving the quality of public institutions requires a broader and deeper social consensus and capacity for cooperation than, say, currency stabilization or price liberalization. Law is a public good, and politically disorganized societies, by definition, have a hard time creating public goods. The magnitude of the

³³ The latest form of the fight against corruption of law enforcement agencies has been the coming out, in Romania, of anonymous web sites disclosing corrupt policemen, again with price tags attached to various felonies.

challenge facing legal reformers can be expressed simply by recognizing that legal reform is a branch of state building.

Evidence from East European states acknowledges this reality. The poor state of the judiciary is considered by analysts to be the most alarming problem within the Bulgarian and Romanian political systems. The budget for the judiciary in Bulgaria, for instance, is about a fiftieth of the average budget of comparable EU countries and the situation of other East European countries is not much better. What is even more worrisome is that the judiciary cannot be considered independent. For instance, the involvement of the executives (primarily the Ministries of Justice) in nominating of the judiciary, removal of attorneys in corruption cases and determining the budgets is a common feature (Azmanova 2000).

Paradoxically, the channeling of Western financial assistance for liberal reforms through East European governments had only reinforced problems in many sectors: in many instances the PHARE programs finance directly the domestic administrative corruption and lack of effectiveness, mainly due to pressure from Bruxelles to spend the funds, rather than reach some clear targets that can be assessed. 'Success' of assistance programs to some East European governments means more often than not that that grantees managed to spend the allocated funds. A thorough diagnosis of what specific problem should have been targeted, by what means, by empowerment of what actors and to what finality is often missing. Therefore, there is no surprise that vast sums of money out of the Western taxpayers' pockets are spent in the East with minimal effects. Promoting large scale institutional and societal change requires understanding of local situations based on thorough research, flexible and creative procedures to grant aid, and regular measurements of aid's effects (so more than consultants' assessments).

The advent of a new legal culture in Eastern Europe cannot be prompted unless a more comprehensive strategy is forged with the aim of building institutional social capital. This requires bringing in line various organizations able to act as agents of horizontal accountability, be it formal or informal and empowering them to act as partners, Ombudsmen and audit agents of governmental agencies in the framework of large coalitions for transparency and accountability of governments and public sector in general. Corruption and accountability issues have occupied little space on the agenda of the European accession negotiations so far. The reason for this is that they are informal phenomena, while negotiations are extremely formal in their nature. *Therefore, informal realities, regardless of their importance, become the main casualties in the negotiation process.* As the reform of the public administration in Eastern Europe is Brussels-driven, the EC needs to further strengthen its position on

accountability and best administrative practices, and use its leverage to support domestic 'mani pulita' coalitions, not governments alone. *If EC wants the negotiations to succeed in countries where informal institutions are at least as strong as formal ones there is little alternative to developing a strategy to address informal problems backed by a part of the resources dedicated to formal ones*³⁴. It is only the investment in the former than can prompt some returns from the investment in the latter. The same applies to countries which are not applicants - such as Russia - but are nevertheless massive recipients of European assistance programs for the reform of law enforcement agencies.

5. Do good fences make good neighbours?

Unlike previous enlargements, this is the first to include the justice and home-affairs *acquis*, which now cover asylum, control over external borders, migration, organized crime, terrorism, drugs, as well as police, customs, and judicial cooperation. Most importantly, the *acquis* also includes the Schengen agreement on the dismantling of border checks between member states. Article 8 of the Protocol of the Treaty of Amsterdam which incorporates the Schengen *acquis* specifies that future new members of the EU will have to accept the Home and Justice Affairs *acquis* in full. Most of the applicant countries have already started to adjust, as changes to the border control mechanisms, the visa regimes and the conclusion of re-admission agreements with neighboring countries show. Romania and Bulgaria were required to do this in order to be removed from the black list of visas, despite the perspective of membership being quite distant for the moment. In spite of the diversity of national practice expressed through flexibility arrangements within the Justice and Home Affairs regime (to accommodate Western countries that opt out, members such as UK and non-members such as Norway), this regime is well on the way to becoming the *sole regime* for Europe, at least as regards its control and enforcement rationale and its tendency to create central European controlling instruments, such as Europol and the SIS (Monar 1999). In other words, there is no room for negotiation here, East European countries becoming passive *consumers* of asylum and border policies of the EU. Applicant countries had done more or less to comply so far, the bottom line being more than less in all circumstances. Challenges vary greatly, though.

Poland

The security of Poland's eastern borders has become of serious concern to the EU. Not only has EU money (more than \$50 million in 2000 alone) and technical assistance been provided to shore up Poland's ability to control its

borders. In addition, the EU hopes to station German patrols along the Union's new Eastern front. According to Brandenburg's minister for justice and European affairs, up to 10,000 German border guards are available for a possible "Schengen border control" in Poland. Poland is also worried for the fate of ethnic Polish living in Ukraine. Indeed the various measures adopted between 1997 and 1999 led to a dramatic decrease in border traffic (50%)³⁵. Although Poland has initially resisted the outright militarization of its borders with Ukraine and Belarus, Polish customs officers have begun to police the border in keeping with EU expectations. German-trained, Polish border brigades have successfully tightened restrictions, often using force and intimidation in the process; but in doing so they have also curtailed the vibrant "bazaar economy" that had sprung up in the border regions.³⁶ As a result, economists estimate that 140,000 jobs will be lost on the Polish side in a region that can ill afford such a reduction. It is also estimated that petty border trade accounts for as much as 29 percent of Poland's exports (in 1996-97, for example). (Cirtautas 2000). There is also a political cost to these restrictions, combined with the long process of admission. Poland was once the East European country most in favor of membership. But now only 30 percent of those polled definitely support membership and only 59 percent would vote in favor of it, down from 80 percent approval in 1996.³⁷

Increasing public awareness of stiff membership requirements has clearly shaken the public's confidence in the positive benefits of EU accession. If this trend continues, fostered by the inability of the Commission to resist proposals by member-states to block any form of redistribution towards the new entrants (reform of the CAP, structural funds) Poles might reject entering the EU in the referendum required to approve membership.

Czech Republic

The Czech Visa Policy was adjusted to come fully in line with that of the EU by the date of Czech Republic's accession to the EU. By its Resolution No. 843 of 25 August 1999, the Czech Government approved the document "Concept of the visa policy", which contains a time schedule of concrete steps of harmonization of Czech policy with Council Regulation No. 574/99/EC determining the third countries whose nationals must be in possession of visa when crossing the external borders of the Member States.

Since 1998 the visa modernisation project has been being implemented in the Czech Republic, including electronic exchange of data among of embassies,

³⁴ Corruption, an informal issue, cannot be addressed by formal training, for instance.

³⁵ see Vahl.

³⁶ *Newsweek International*, September 18, 2000, p. 18

³⁷ CBOS Survey, July 2000

Ministry of Foreign Affairs and Ministry of Interior in the visa process. Extending of the project is currently in course and it will be completed in 2000.

A unified visa format will be introduced in the Czech Republic as of the date of its accession to the European Union in accordance with Regulation 574/1999. The only problem of the Czechs are their Roma, who prompted repeated warning of the EC.

Slovenia

Slovenia has taken the most restrictive approach to freedom of movement and therefore the closest in spirit to the Schengen requirements. Slovenia introduced visas for Romania and Bulgaria in 2000, following earlier introduction of visas for countries from CIS, former Yugoslavia (except Croatia), and Albania. In the same time it started the very expensive process of building a Schengen border between itself and Croatia, despite the quite exceptional status of Croatia as a non-applicant country (Croatians are free to travel with ID permits only in Slovenia, Italy and Austria, therefore they are enjoying similar privileges to Central European advanced applicants, far in front of Christian Orthodox second-wave applicants). Despite some border problems between Slovenia and Croatia, granting a special status to Croatia has the support of a number of member states and therefore is certain to endure. No problems are there in line for Slovenia's full adoption of the Schengen acquis. Slovenia has also the highest livings standards of all the Eastern European countries, so the least immigration potential.

Hungary

Of all the countries in the first wave Hungary struggled the most to keep its borders open to neighboring countries. This is due mainly to the presence of important Hungarian communities living in these countries, notably in Transylvania (Romania), Ruthenia (Ukraine), Vojvodina (Yugoslavia) and Slovakia. The Hungarian government put forward in the spring of 2001 a heatedly debated 'status bill', the aim of which is, allegedly, to stop ethnic Hungarians' emigration to Hungary and to ensure better conditions for them in their homelands. The bill will grant a 'Hungarian card' for each ethnic Hungarian living abroad who would apply. The card is a token of second-rank citizenship: holders would be able to travel visa-free and work in Hungary for three months per year with all benefits included. They will not be granted the right to vote, however, following long and ardent internal debates. Due to the large numbers of Hungarians in surrounding countries (4 million) granting of full citizenship rights would have destabilized Hungarian domestic political life.

According to Foreign Ministry Secretary of State Szolt Nemeth³⁸, some 25 percent of ethnic Hungarians abroad wish to settle in Hungary, and the rate might increase when Hungary becomes a EU member. By adopting the status bill Hungary would honor a "historical obligation". It is not clear to what extent this decision of the Hungarian government is in full agreement to EU rules and can be sustained after Hungary becomes a member, since it discriminated in favor of ethnic Hungarian workers, but Hungary claims the bill frees their hand to fully implement Schengen. Needless to say, the bill was quite unpopular with Hungary's neighbors, mainly Romania, where a 1.6 million strong Hungarian community still lives.

Slovakia

Slovakia moved even ahead of Hungary. Since 1997, during Meciar government, it adopted the 'Slovak card' meant to expand some citizenship rights to ethnic Slovaks living in neighboring countries, notably Ukraine. Following this gesture Slovakia introduced visas for CIS countries and is complying to the request to have the full Schengen acquis adopted from the first day of accession. The border with Ukraine is Slovakia's only 'hard' border, the rest are borders with EU or applicant countries.

Romania

Following the removal of Bulgaria from the black list of visas in 2000 Romania receives the least favorable treatment among applicant countries, although the Commission recommended in June 2001 that Romanian should be removed from the list as well starting with January 1st 2002. Travel to any EU country, plus Slovenia and Malta among applicant countries requires a visa for Romanian citizens. Only in the cases of Slovenia and Malta can the visa be granted at border entrance: for the rest application in person is needed at the Bucharest consulates. The Consulates of EU member-states in Romania are a picture of what would become the Polish or Romanian consulates in the CIS once these countries are admitted into Schengen. Despite manageable number of applicants, the Consulates are understaffed, perceive high taxes and prove unable to set appointments to applicants, long and disgraceful queues being periodically showed on television. Corruption is rampant, and embassies are purged periodically of clerks accepting bribes in exchange for visas, only to start all over again as soon as others fill their places. The treatment is applied equally to Romanian graduate students of Western universities, renowned artists, journalists and businessmen, leading to frustration feelings and constant outbursts of anti-Western attitudes in the media.

³⁸ "RFE/RL Newslines," 20 April

Romania has three difficult borders: with Yugoslavia, where frequent breaks of the embargo were reported throughout the Yugoslav wars, with Ukraine and Moldova. The last two present serious problems, not so much due to the large number of Romanian-speakers residing in these countries, as to the frequent use of these borders by Asian immigrants as transit borders towards Eastern Europe. Romania has signed over 30 readmission agreements (allowing the repatriation of illegal migrants from Western Europe to their last country of origin), joined almost one hundred agreements with regard to preventing and fighting organized crime, passed in 2001 a law of aliens and an ordinance on refugees and overall it struggled to meet requirements in the framework of its severely limited institutional capacity. Entrance on the basis of ID only between the two largely Romanian states, Romania and Moldova, was suspended recently and Moldovans have access on the basis of passport only from now on, although a visa is not required yet. Romania has also moved to secure its foreseeable future similar massive efforts on the scale that were deployed in Poland, including import of border guards along with infrastructure from Western Europe will certainly be needed for the Eastern border to resist. For the moment Romania struggles to sign readmission treaties with Moldova and Ukraine, which are both reluctant: the latter engaged in negotiations, but the former refused to show up to even discuss the issue.

Bulgaria

Bulgaria has moved ahead to tighten its borders. In 1999 a law was adopted which introduced a far more secure passport. Conscripts were replaced by police officers at the borders, and visas for some of the countries black-listed by the EU were introduced. Due to these timely measures, Bulgaria had the satisfaction to be removed from the black list at the end of 2000. The EU decision came as a necessary and by no means sufficient hand for the pro-EU government facing serious erosion of popular support after endorsing EU and NATO in the Kosovo war and promoting austere fiscal policies. The similar Romanian government had already become a casualty in November 2000.

Baltic states

The one significant problem of the Baltic states is overwhelmingly considered the Russian enclave of Kaliningrad. But it is not quite so. The Russian speaking minorities of the Baltic states will undoubtedly require some travel special status for relatives from Russia. By all means, Russia itself is certain to feel more directly its isolation once cut from the Baltics, whose seaside resorts were once a pride for the Soviet Union and a common destination for domestic tourists. While the migration potential of the Baltics is not so high, with the exception of

Lithuania, enforcing Schengen borders at the Baltics frontiers carries high political risks and costs. A flexible arrangement allowing Russian citizens at least to get national Baltic visas at the border so be able to travel freely in the Baltics', although prevented to enter the rest of the Schengen space without a visa looks as an absolute necessity.

The implementation of the Schengen acquis by the new applicant states and the enforcement of the Schengen border looks as it answers so far only the security concerns of Western European states. Schengen is hardly a 'security and stability factor' of Eastern Europe: rather it induces new tensions between neighbouring countries, which had barely managed to surpass them with considerable difficulty. The situation is even more delicate concerning South Eastern Europe, where the EU endorsed stability pact vowed to bring more stability and security to the region. Favouring Croats over Serbs even after the normalization of the situation in Serbia, the isolation of high-migration potential Bosnia and the new wall between Slovenia and the rest of Balkan countries can hardly be considered as stabilizing policies. Transitory or lasting forms of accommodation with neighbors are highly necessary. Those would cover the Ukrainian-Polish problem, the Romanian-Moldovan one, the Balkan borders in general. While rushing to join the EU, applicant countries should not forget that vicinities are lasting realities, and by no means is vicinity with Western Europe the only one to matter. Yugoslavia, Ukraine and Russia may not do well for the moment, but citizens of these countries bear no guilt for their political or socio-economic inferior status and if they are far from gaining entrance in the club of the rich at least they should not lose their essential freedom to circulate in the former common East European space. This would only feed unnecessary frustration and resentment, which are anyway far from being in short supply in the region.

6. Can elite consensus substitute general lack of support?

Critics of the enlargement process in Eastern Europe see it as an unnecessarily complicated, lengthy and half-heartily EU-endorsed process. Compared to the previous enlargement or its share in the expenditures' EU budget the enlargement looks indeed as a second-rank, low importance process. Supporters in Western Europe, who know the difficulty of pushing ahead the enlargement idea, which is popular in the West only as long as it does not cost taxpayers a penny, claim this slow speed is the only one possible: at a faster pace either East Europeans could not carry the burden of adjustment, or West European publics would get scared off and put a hold to the whole process. Despite low investment in funds, the process is no less a major historical one and in time it will show a lot was accomplished even with limited resources. By and large one gets the clear feeling, however, Easterners somehow steal the enlargement

through the back door of the EU with the help of the Commission and the political and intellectual elites of a few member states. According to a recent Eurobarometer poll, a mere 27 percent of Westerners think enlargement is of primary importance for the EU, with Germans the wariest of EU citizens. That makes the Brussels bureaucracy the only consistent supporter of enlargement and adds to the democratic deficit between EU headquarters and member governments. No doubts speaking for his constituents back home, EU Commissioner for Enlargement, Guenther Verheugen, emphasized quite a few times that enlargement should represent an informed political choice by EU citizens. But that will not happen until the enlargement project ceases to be a low-priority issue on the agenda of Western political leaders, who never had a consistent and sustained program of 'selling' enlargement to domestic publics.

Despite some temporary setbacks, the view that by and large Eastern Europe after 1989 has been a tremendous success (Vachudova 2000) seems to prevail over the pessimistic one that the region has changed at a slower pace than expected. Never before in history has democracy taken root somewhere at such an amazing speed: even countries which did not meet economic success, such as Romania, had managed to solve centuries-long inter-ethnic problems more successfully than anyone had dared to predict eleven years ago. Successful markets have paved the way of societal transformation almost everywhere; the different paces of transformations being explained more by the difference in initial constraints than in anything else (Bunce 1999).

Despite this, the situation of EU enlargement's popularity in Eastern Europe is however quite paradoxical. Large masses seem to endorse the EU accession process in polls, but evidence shows they are largely ignorant about it and give it more of a symbolic endorsement than of anything else. Elites are, however, fully committed, and this commitment has crossed over the communist/anti-communist cleavage within the political class, which had existed at the beginning of the transition. This had been an important gain for the region in itself: the fact the pro-EU political discourse is the only legitimate discourse, all alternative discourses being so far de-legitimized.

But will it last the difficulties of negotiations and integration? Pro-Western elites in Eastern Europe are something the West has always taken for granted, and for good reason, too, because there has always seem to be a fair supply of those. Western political elites have swiftly moved ahead for enlargement because, among others, in compensation for deserting specifically those Eastern elites in 1938, 1945 and 1956 - to speak only of the most exceptional moments. Less important on the greater historical scale, but important still, we have seen the fall of the first democratically elected Romanian leader in a century, Emil Constantinescu, who became unpopular

mainly due to his support of NATO in the highly unpopular war waged by the West on a neighbor, traditional ally and fellow Orthodox country. Leader of the most constrained East European country, carrying the heritage of Ceausescu's worst totalitarian European regime, Constantinescu had never enjoyed decisive Western support.³⁹

Lack of support for pro-European leaders by the West and lack of mass awareness campaigns on the historical importance of the enlargement in the EU can only shipwreck the whole process sooner or later. When this will happen Europe may find itself prey to a return of populism already anticipated by some elections' results in late nineties and early 2000's, from Jorg Haider to Vadim Tudor. Everything in our power must be done to prevent such a development.

Conclusions

All problems have solutions, more if looked at in detail, fewer if addressed globally. The European Eastern border is no exception to that rule. At a broad and historical scale it may look as a hopeless game, especially for Europe's Balkan, former Ottoman-dominated territories, but generally speaking for the Christian Orthodox and Muslim Eastern Europe. Voltaire was famously stating that Europe should distance itself from the Balkan peninsula, then under Turkish occupation: its former Byzantine affiliation mattered less for him than the need to keep Europe away from legendary Thrace.⁴⁰ Of course, the fact that precisely the Orthodox countries are falling behind Europe, within and without the future enlarged EU border may mean nothing in itself. The case of Greece shows that geographical determinism, not religion, is at the origin of Europe's post-modern border. Passive endorsement by Western leaders of cumulated negative geographical determinisms, however, by giving less attention and investment instead of more to South Eastern Europe can only lead to a reinforcement of the vicious circle and the setting of the European border north of the Balkan Peninsula. Voltaire's warning would be then fulfilled.

Looking in more detail to problems, there are a few obvious policy options to endorse if such negative developments are to be prevented. These are based on a number of assumptions, however, some not quite optimistic.

Assumption number one considers that Europe will not start a process of major change of its enlargement strategy, spending reform and the rest until the first group of accession countries, including Poland, will join; even then it will

³⁹ This is not to blame Constantinescu's (and his regime's) downfall entirely on the West. The West carries nevertheless a serious responsibility for the handling of the 1999 due Romanian foreign debt.

⁴⁰ *Essai sur les moeurs*, CXCVII.

be a great mobilization from some Member States to reduce the impact of these new countries joining Europe, and especially the need to creatively reform Europe. Invention of several exceptions and transitional thresholds of all kinds⁴¹ to prevent the new members from enjoying basically the same rights and privileges as the old ones and to protect the old rules of the game⁴² may be in store still.

Assumption number two is that the enlargement process will be delayed or even halted after the first group of countries joining, more if Poland is part of this first group, less if it is not, due to difficulties presented at point one and the serious economic gap between some of the applicant countries and the EU, despite progress recorded with the formal adoption of the *acquis*. Since EU's foreign policy towards Eastern Europe in the past decade was largely an incremental, self-interest filtered response to strong pressures from Visegrad countries mainly (Smith 1999) we can assume that once these pressures will ease the process will be stalled, although important points on the agenda of the new entrants (such as Poland's need to keep a flexible Eastern border) will likely make it on top of the agenda.

Assumption number three supposes that change control in order to keep it at an incremental pace will nevertheless fail in the end and the reality will force some important adjustments as soon as a joint pressure will be put on by the wave of deceived first-wave joiners on one hand and the delayed (from different reasons) second wave applicants on the other. This may not go as far as the expected opportunity to 'remodel Europe's economic and social shape'⁴³ (Vaughan Whitehead 2000) but it will prompt some adjustments nonetheless.

Assumption number four is that, due to the lack of a coherent and clear policy target, as well as their large size continuing to act as an amplifier of problems and their development legacies, the great CIS countries, notably Russia and Ukraine may enjoy growth but will remain tremendously poor, alternating episodes of democracy with episodes of political violence. Illegal border-related activities, as well as immigration pressures on the EU border will only grow as this border moves further East. Furthermore, a new wave of solidarity among Orthodox countries with painful transitions will bring them closer to Russia, who will start to act more and more as a representative of the whole area East of the enlarged Europe.

⁴¹ One example is the April 2001 Commission decision to phase for five to seven years the granting of full mobility rights to new entrants at Germany's request.

⁴² see, for instance, Spain's reluctance to conceive a change in the distribution of structural aid, 'What's ours is ours', *The Economist* of May 26, 2001.

⁴³ RSC no 29/2000

Assumption number five is that Croatia and Serbia will however record a positive evolution, problems in Kosovo and Macedonia will become milder but chronic, and Bosnia will remain a hard to sustain state.

Given these assumptions three broad recommendations seem more appropriate:

A case-by case differential approach

The one-size-fits all enlargement policy worked well with countries that were small enough, committed enough and received a high level of foreign direct investment. Its weakness is more and more visible in all the other cases, and it risks generating casualties once real hard problems, such as Polish agriculture will be on the table. Furthermore, the *acquis* can be a burden rather than a support wherever institutional underdevelopment and prevalence of informal institutions over formal ones are serious. This is merely to say that different cases (or countries) require different approaches; more problems require more support if there is the political will to bring the task to a successful end for each and every applicant country; the *acquis* must be understood as an end, not an instrument and therefore policies should be devised on how to integrate it in domestic institutions rather than expect it shape new ones. This requires giving up some of the rigid strategy pursued with little success so far and its instruments (the famous PHARE program in its present form) and associate with other actors and donors (such as the World Bank) in a more problem-centred policy approach. This regards especially the building of an accountable, transparent and effective judiciary and law enforcement segment in South-Eastern Europe. No revision of treaties or other inaccessible strategies are needed, only a better and daring understanding of assistance strategies.

Assignment of a special border role to South-Eastern European countries should be combined with joining forces with NATO in preventing risks and potential danger of instability in the region. It was obvious all along that Eastern Balkan countries were not ready to join the EU and the process will be lengthy. All the more logical, since their task even before joining becomes the enforcement of borders is that they should become NATO members. This task can be realistically fulfilled before becoming EU members, in 2002. The tremendous difference NATO membership would make for borders infrastructure (in modernizing airports, highways or bridges, for instance, as it did in Turkey or more recently in the Czech Republic) and the training of specialized staff does not need to be argued. NATO membership should be extended in 2002 at least to all countries on the South-Eastern flank of enlarged

Europe.⁴⁴ It is only realistic to assume that some borders will remain more difficult than others, and may remain for a while borders between regions at peace (Bulgaria) and regions at war (such as Macedonia). While struggling to develop civilian institutions we must also acknowledge some challenges will not wait until these countries are ready.

Extended regional cooperation to the East and the South

EU-Russia and EU-Ukraine extended cooperation is needed, including allowing flexible solutions to allow non-applicants to keep some freedom of travel in Eastern Europe. The same solutions should be applied with former Yugoslavian countries, going further than the model of the recent EU-Macedonia agreement. Not isolation from former Yugoslav countries, but enhanced cooperation and investment in regional programs can bring the region back together, a solution which had become less unthinkable after the fall of the Milosevic regime at Belgrade. Imagining that EU in the present stage or in some near future can by itself solve the hard security issues, such as Macedonia, via aid packages and lifting trade barriers is an error, however. Securing the South-Eastern and Eastern border requires more than it gets presently, and it cannot wait for the European defense initiative or other far-fetched solution to come into being but needs horizontal cooperation between various agencies. In old times, enlightened conquerors were accompanied in their campaigns by merchants and artists: Europe's advance to the East requires this collection of military, police, business and institution building groups and none of those by themselves can succeed in taming both the Tartars and the West's dread of them.

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⁴⁴ Zbigniew Brezinski proposed a good arrangement, basically patterned after Helsinki; to invite every EU applicant to join NATO in 2002, countries joining at different paces. This would allow however NATO to decide where more urgent involvement is needed, such as the more vulnerable borders.

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